

STATE OF ILLINOIS
OFFICE OF THE GOVERNOR
SPRINGFIELD, 62706GEORGE H. RYAN
GOVERNOR

February 8, 2002

To the Honorable Members of the
Illinois House of Representatives
92nd General Assembly

Pursuant to the authority vested in the Governor by Article IV, Section 9(e) of the Illinois Constitution of 1970, and re-affirmed by the People of the State of Illinois by popular referendum in 1974, and conforming to the standard articulated by the Illinois Supreme Court in People ex Rel. Klinger v. Howlett, 50 Ill. 2d 242 (1972), Continental Illinois National Bank and Trust Co. v. Zagel, 78 Ill. 2d 387 (1979), People ex Rel. City of Canton v. Crouch, 79 Ill. 2d 356 (1980), and County of Kane v. Carlson, 116 Ill. 2d 186 (1987), that gubernatorial action be consistent with the fundamental purposes and the intent of the bill, I hereby return House Bill 3098 entitled "AN ACT concerning meetings of public bodies," with my specific recommendations for change.

House Bill 3098 amends the Open Meetings Act to require the presiding officer of a closed meeting of a public body to certify that the closed meeting discussion did not violate the Open Meetings Act. The bill provides the specific statutory form to be used for the certification, and requires that the certification be made available for inspection and copying within seven working days after the meeting.

I have been contacted by over one hundred local officials and local government associations regarding their concerns and questions with respect to this legislation. I believe many of these concerns are valid.

One concern is regarding the certification by the presiding officer that the closed meeting did not violate the Open Meetings Act. House Bill 3098 fails to address the scenario when a violation of the Illinois Open Meetings Act does occur. If a presiding officer believes a violation did occur, and refuses to sign the certification, he or she would be in violation of the law. If, however, the presiding officer did sign the certification and the meeting did indeed violate the Open Meetings Act, the officer would again be in violation of the law. A change is necessary to protect a presiding officer who acts in good faith by refusing to sign the certification making him or her personally liable. Such a change would comply with the intent of House Bill 3098 because failure to file the certification would alert the public to a potential violation of the Open Meetings Act and prompt the current enforcement proceedings in the Act.

This bill further requires the presiding officer to certify that he or she understands Section 2 of the Open Meetings Act. There are 23 exceptions in this section that allow a public body to hold a closed meeting and many of these exceptions are subject to legal interpretation. The presiding officer at these meetings is seldom an attorney, and I can not sign a law that would burden local government officials to interpret such a complicated law. This burden would create confusion and may act as a disincentive to many Illinois citizens who volunteer their time and talents to serve in government.

Therefore, in order to avoid unintended consequences and to limit the burdens that may be placed on local officials, I hereby return House Bill 3098 with the following specific recommendations for change:

On page 2, line 2, by inserting "if it is the case," after "writing"; and

On page 3, line 2, delete the word "UNDERSTAND" and replace with the words "HAVE READ".

With these changes, House Bill 3098 will have my approval. I respectfully request your concurrence.

Sincerely,
s/GEORGE H. RYAN
Governor